

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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BURKS,

Plaintiff,

v.

ORDER TO SHOW CAUSE

CITY OF YONKERS, et al.,

19-cv-01152 (PMH)

Defendants.

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PHILIP M. HALPERN, United States District Judge:

On March 13, 2020, Judge Román issued an Order to Show Cause why this action should not be dismissed with prejudice for want of prosecution which was mailed to plaintiff by the Clerk's Office. (Doc. 11). On April 3, 2020 this case was reassigned to me, and on April 16, 2020, the mailing was returned as "Attempted Not Known." No response to the Order to Show Cause has been filed. On June 29, 2020, I issued an Order directing plaintiff to submit a letter by July 20, 2020 notifying the Court of any change of address and reminding plaintiff that the Court may dismiss this action if he fails to notify the Court in writing of a change in address. I also advised plaintiff that failure to respond to this Court's order will result in dismissal of his case. (Doc. 12).

On July 20, 2020, defendants submitted a letter notifying the Court of plaintiff's apparent new address: DIN #19A0925, Clinton Correctional Facility, 1156 RT. 374, P.O. Box 2001, Dannemora, NY 12929. (Doc. 13). Thus, all documents mailed to plaintiff by the Court have been returned because Plaintiff is no longer at the address listed on ECF; is apparently located at the Clinton Correctional Facility; and despite multiple Orders from the Court, plaintiff has not updated his address.

Additionally, plaintiff has not taken any steps to advance this action for over a year, and has failed to update the Court as to his change of address, however, this Court will permit plaintiff one final opportunity to respond to my Order and Judge Román's Order to Show Cause.

Under Rule 41(b), "a district judge may, *sua sponte*, and without notice to the parties, dismiss a complaint for want of prosecution...." *Taub v. Hale*, 355 F.2d 201, 202 (2d Cir. 1966); *West v. City of New York*, 130 F.R.D. 522, 524 (S.D.N.Y. 1990); *Lewis v. Hellerstein*, No. 14-CV-07886, 2015 WL 4620120, at \*1-2 (S.D.N.Y. July 29, 2015); *Haynie v. Dep't of Corr.*, No. 15-CV-4000, 2015 WL 9581783, at \*1-2 (S.D.N.Y. Dec. 30, 2015). Plaintiff's failure to prosecute this action has impeded the Court's efforts to "avoid calendar congestion and ensure an orderly and expeditious disposition of cases." *Cortez v. Suffolk Cty. Corr. Facility*, No. 15-CV-1957, 2016 WL 6302088, at \*2 (E.D.N.Y. Oct. 25, 2016).

Accordingly, it is hereby ORDERED that plaintiff show cause in writing on or before August 31, 2020, why this action should not be dismissed with prejudice for want of prosecution pursuant to Fed. R. Civ. P. 41(b). Failure to comply with this Court's Order will result in dismissal of this case for want of prosecution.

The Clerk of Court is respectfully directed to mail a copy of this Order to plaintiff at the address listed on ECF, as well as the following address identified by defendants:

Charles Burks  
DIN #19A0925  
Clinton Correctional Facility  
1156 RT. 374  
P.O. Box 2001  
Dannemora, NY 12929

SO-ORDERED:

Dated: New York, New York  
July 30, 2020

A handwritten signature in black ink, appearing to read 'Philip M. Halpern', written over a horizontal line.

Philip M. Halpern  
United States District Judge